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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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DR. NORM FAIOLA PH.D.

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11/29/2002

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EXAMINER

NGHIEM, MICHAEL P

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 11/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/316,651

Applicant(s)

FAIOLA PH.D. ET AL.

Examiner

Michael P Nghiem

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-21,23-25,27-38 and 41-224 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☒ Claim(s) See Continuation Sheet is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Continuation of Disposition of Claims: Claims rejected are 3-6, 8-15, 17, 20, 21, 23, 24, 28, 31-33, 37, 38, 41-46, 48-58, 61, 62, 66, 68-82, 85, 86, 90, 92-97, 100, 101, 105, 107-109, 111-113, 116, 117, 121, 123, 125-130, 132, 133, 136, 137, 141, 145-147, 149-155, 158, 159, 163, 165-168, 170-175, 177-182, 184-189, 191-196, 198-203, 205-215, 218, 219 and 223.

Continuation of Disposition of Claims: Claims objected to are 7, 16, 18, 19, 25, 27, 29, 30, 34-36, 47, 59, 60, 63-65, 67, 83, 84, 87-89, 91, 98, 99, 102-104, 106, 110, 114, 115, 118-120, 122, 124, 131, 134, 135, 138-140, 142-144, 148, 156, 157, 160-162, 164, 169, 176, 183, 190, 197, 204, 216, 217, 220-222 and 224.

DETAILED ACTION

The Amendment filed on September 17, 2002 has been acknowledged.

Withdrawal of Allowability

1. The indicated allowability of claims 3, 4, 8, 23-25, 27-29, 32, 34-37, 41, and 42 are withdrawn in view of the newly discovered reference(s) to Kashimoto et al. (US 6,137,095), Dehn (US 4,237,731), Ishii et al. (US 5,360,965), and Watanabe et al. (JP 4-347417). Rejections based on the newly cited reference(s) follow.

Specification

2. The disclosure is objected to because of the following informalities:
- "22'" (page 11, line 14) and "22'" (page 11, line 16) should be -- 21' --.
 - "18" (page 12, line 13) should be -- 38 --.
 - after "bits" (page 13, line 2) should insert -- 56 --.
 - "37" (page 15, line 4) is not a sensor element.
 - "68" (page 19, line 13) should be -- 66 --.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-21, 23-25, 27-38, and 41-224 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As noted by the court in *In re Flint*, 411 F.2d 1353, 1357, 162 USPQ 228, 231 (CCPA 1969), "applicants should be allowed reasonable latitude in stating their claims in regard to number and phraseology employed. The right of applicants to freedom of choice in selecting phraseology which truly points out and defines their inventions should not be abridged. Such latitude, however, should not be extended to sanction that degree of repetition and multiplicity which beclouds definition in a maze of confusion. The rule of reason should be practiced and applied on the basis of the relevant facts and circumstances in each individual case."

Applicants have presented an unreasonable number of claims in view of the nature and scope of applicant's invention, which are repetitious and multiplied with a net result of which is to confuse rather than to clarify (See MPEP 2173.05(n)).

In order to overcome this rejection, please select certain claims, not to exceed 50 claims, which is sufficient to properly define applicant's invention.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 3, 8-10, 13-15, 17, 20, 21, 23, 24, 28, 31-33, 37, 38, 44, 46, 52-58, 61, 62, 66, 76-78, 85, 86, 90, 92, 95-97, 100, 101, 105, 108, 111-113, 116, 117, 121, 123, 125, 126, 128, 132, 133, 136, 137, 141, 145, 149, 154, 155, 158, 159, 163, 165, 168, 170-172, 175, 177-179, 182, 184-186, 189, 191-193, 196, 198-200, 203, 209-211, 218, 219, and 223 are rejected under 35 U.S.C. 102(e) as being anticipated by Kashimoto et al. (US 6,137,095).

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As best construed, Kashimoto et al. discloses all the claimed features of the invention including:

- a monitoring system (Figs. 4-14) comprising:

- a sensing subsystem (microwave oven, 29) having at least one sensing device for generating at least one data stream (heating information, column 6, lines 19-20);

- a processing subsystem (33) for receiving and processing said data stream (Fig. 4), and said processing subsystem including a memory (37), said processing

- subsystem adapted to encrypt said at least one data stream to form an encrypted data stream corresponding to said at least one data stream (via 77, 78, column 20, lines 5-11), and being further adapted to write said encrypted data stream to said memory (column 7, lines 16-18), wherein said processing subsystem is adapted to read said encrypted data from said memory, and to decrypt said encrypted data while reading said encrypted data (process of encrypting/decrypting data received and stored in 37);

- said sensing subsystem includes a transmitter (31) for transmitting said at least one data stream, and wherein said processing subsystem includes a receiver (34) for receiving said at least one data stream (Figs. 4-14);

- said at least one sensing device includes a temperature sensor and a battery (power supply of 25), and wherein said at least one data stream includes data pertaining to said temperature sensor and data pertaining to a power level of said battery (column 6, line 12-19);

- said at least one data stream is a digital data bitstream (via telephone line 9);

- said processing subsystem includes a display (39b), and wherein said processing subsystem is adapted to output on said display graphical indicia indicating both a temperature and a battery level associated with said at least one sensing device (39b displays "cooking information" received, Fig. 7);

- said sensing subsystem includes a sensing apparatus for sensing characteristics of food stored in a plurality of food serving or storage containers (cooking chambers 27);

- said each of said probes being hard-wired to said central transmitter adapted to transmit data from each of said plurality of probes (29 is hardwired to 32);

- a member (25) supporting at least one of said plurality of food storage containers;

- said at least one sensing device (microwave, column 6, line 8) is a cooking utensil incorporating a sensor;

- said system is configured so that said sensing subsystem wirelessly transmits said at least one data stream to said processing subsystem (Figs. 4-14);

- said system is configured so that said sensing subsystem transmits said at least one data stream to said processing subsystem via a computer network (Figs. 4-14).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6, 11, 43, 71, 94, 107, 127, 130, 147, 167, 174, 181, 188, 195, and 202 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kashimoto et al..

As best construed, Kashimoto et al. discloses all the claimed features of the invention except for said at least one sensing device is a probe device adapted for insertion into food.

However, since Kashimoto et al. discloses that (29) can be used for detecting a physical change of food (column 6, lines 10-15), it would have been obvious to a person having ordinary skill in the art at the time the invention was made to insert the probe device of Kashimoto et al. into food for the purpose of detecting a physical change of food.

Claims 12, 41, 42, 45, 68-70, 93, 109, 129, 146, 166, 173, 180, 187, 194, and 201 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kashimoto et al. in view of Dehn (US 4,237,731).

As best construed, Kashimoto et al. all the claimed features of the invention except for said probe device including a housing, an elongated pin section extending from said

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housing, and a sensing element completely disposed in, and encapsulated by said elongated pin section.

Nevertheless, Dehn discloses a probe device including a housing (Fig. 5), an elongated pin section (30) extending from said housing, and a sensing element (29) completely disposed in, and encapsulated by said elongated pin section (Fig. 5) for the purpose of sensing temperature in food and at least one conductor secured to a member (Figs. 5-7) including a flattened conductor housing (28, 34, 37) for the purpose of providing electrical communication to the probe device.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide Kashimoto et al. with a probe and conductor housing as disclosed by Dehn et al. for the purposes of sensing the temperature in food and providing electrical communication to the probe device.

Claims 48-50, 72-74, 79-81, 150-152, 205-207, and 212-214 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kashimoto et al. in view of Watanabe et al. (JP 4-347417).

As best construed, Kashimoto et al. discloses all the claimed features of the invention except for said at least one sensing device comprises a seismic sensor.

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Nevertheless, Watanabe et al. discloses at least one sensing device comprises a seismic sensor (Purpose, line 7) for the purpose of sensing pressure in a cooking chamber.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide Kashimoto et al. with a pressure sensor as disclosed by Watanabe et al. for the purpose of sensing pressure in a cooking chamber.

Claims 51, 75, 82, 153, 208, and 215 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kashimoto et al. in view of Ishii et al. (US 5,360,965).

As best construed, Kashimoto et al. discloses all the claimed features of the invention except for said at least one sensing device comprises a weight sensor.

Nevertheless, Ishii et al. discloses at least one sensing device comprises a weight sensor (49, 50) for the purpose of sensing the weight the top plate and turntable of the microwave.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide Kashimoto et al. with a weight sensor as disclosed by Ishii et al. for the purpose of sensing the weight the top plate and turntable of the microwave.

Allowable Subject Matter

6. Claims 7, 16, 18, 19, 25, 27, 29, 30, 34-36, 47, 59, 60, 63-65, 67, 83, 84, 87-89, 91, 98, 99, 102-104, 106, 110, 114, 115, 118-120, 122, 124, 131, 134, 135, 138-140, 142-144, 148, 156, 157, 160-162, 164, 169, 176, 183, 190, 197, 204, 216, 217, 220-222, and 224 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons For Allowance

7. The combination as claimed wherein said processing subsystem is adapted to at least one of either date stamp or time stamp said data stream (claims 7, 16, 18, 27, 29, 64, 88, 89, 103, 104, 119, 120, 139, 140, 143, 144, 161, 162, 221, 222) or data corresponding to an identifier of said device (claims 18, 25, 29, 59, 60, 83, 84, 98, 99, 114, 115, 124, 134, 135, 156, 157, 216, 217) or said processing system is adapted to output on said display graphical indicia indicating each of said sensing devices which has been connected to said system (claims 34-36) or said at least one sensing device includes a temperature sensor, and further wherein said at least one sensing device is mounted in an interior of a refrigerator (claims 47, 110, 131, 148, 169, 176, 183, 190, 197, 204) or said processing subsystem is configured to compress at least one data stream from said first sensing device and at least one data stream from

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said second sensing device (claims 63, 87, 102, 118, 138, 160, 220) or said processing subsystem is configured to determine whether a data stream received therein corresponds to a sensing device which is newly added to said system (claims 67, 91, 106, 122, 142, 164, 224) is not disclosed, suggested, or made obvious by the prior art of record.

Response to Arguments

8. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Contact Information

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703) 306-3445. The examiner can normally be reached on M-H from 6:30AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached at (703) 308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-5841 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-

0956.



MICHAEL NGHIEM
PRIMARY EXAMINER

Michael Nghiem

November 27, 2002
